

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ANNETTE RYAN

(K/N/A KATZ),

Plaintiff,

Case No. 1:15 CV 02384

vs.

ROBERT MCDONALD,

SECRETARY, DEPARTMENT

OF VETERANS' AFFAIRS,

Defendant.

DEPOSITION OF M.D. GARRETT

Taken on Wednesday, April 12, 2017, at 1:30 p.m.

At the Offices of:

The United States Attorney's Office

801 West Superior Avenue, Suite 400

Cleveland, Ohio 44113

Before Kimberly K. Giel, a Registered Professional Reporter

and Notary Public in and for the State of Ohio

1 Q. Mr. Garrett, I'm handing you
2 back your originals. We've made copies
3 of those and there was another document
4 that was in the front part of your
5 calendar and it said Oral Reply to
6 Proposal for Removal. We made a copy
7 of that.

8 A. Okay.

9 Q. And just so that we can mark
10 these for exhibit purposes, I'm going to
11 ask that we mark the calendar as Exhibit
12 A and your handwritten notes as
13 Exhibit B.

15 (Thereupon, Deposition Exhibit-A,
16 Exhibit-B, and Exhibit-C
17 were marked for identification.)

19 Q. Can you identify Exhibit A
20 for the record please?

21 A. Exhibit A is a copy of the
22 calendar that I produced with the dates
23 that I had I kept starting on the 16th
24 of March, 2013, through the 3rd of
25 April.

1 Q. Okay. And then would you
2 identify what Exhibit B is?

3 A. Exhibit B is a paper,
4 handwritten out of a time line, dates
5 and time line of incident matching up
6 with the calendar.

7 Q. And these are documents that
8 were created by you?

9 A. Yes.

10 Q. And can you identify for
11 purposes of the record Exhibit C please?

12 A. Exhibit C was paper I
13 prepared for myself, when I went before
14 the VA hospital board about the thing
15 that they had filed and it was something
16 I need to get, file to get records of
17 for myself and my own records.

18 Q. Okay. And then you have
19 some additional documents in front of
20 you which you said were related to your
21 suspension and grievance?

22 A. Yes.

23 MS. PIZZINO: Prior to going on
24 I'd like to make an objection on the
25 record regarding Exhibits A, B, and C to

1 training record. Everything that would
2 go, it would go into OPM thing.

3 Q. And according to Exhibit F
4 on the second page you received training
5 on Prevention of Workplace Harassment,
6 No Fears, on September 7, 2012. Do you
7 see that notation at the bottom of page
8 2?

9 A. Yes.

10 Q. Okay. Do you recall
11 anything about that training?

12 A. Yes.

13 Q. And was that training also
14 done on the computer system?

15 A. Yes.

16 Q. What do you recall about
17 your training?

18 A. My training, when it dealing
19 with harassment was the training gave
20 scenario, what you could do, but it had
21 the dos and don't of harassment. But
22 also stated too the fact that if someone
23 harassed you, you had a time limit to
24 report it. You just -- and it was a
25 procedure that you would have to go

1 through that the first time you give a
2 person a warning, second time, a step
3 that you would -- they were to report
4 it to the supervisor and the supervisor
5 would bring it. It was certain steps
6 that you would have to do. It just --
7 the whole thing was that we had to be
8 prepared for sexual harassment,
9 conversation on the unit, everything
10 that -- for horseplaying around on the
11 unit and stuff. If anything would have
12 been offensive to you -- might not be
13 offensive have to you, but offensive to
14 someone else.

15 Q. So what was your
16 understanding of what sexual harassment
17 meant?

18 A. Sexual harassment was any
19 unwanted, fear of -- having people fear
20 you, unwanted advance, no touching, no
21 -- if you made an employee feel
22 uncomfortable.

23 Q. And then if you will turn
24 again in Exhibit F to the third page,
25 according to the last entry you received

1 training for prevention of sexual
2 harassment on May 26, 2010. Do you
3 recall that training at all?

4 A. Yes.

5 Q. Okay. And was that training
6 similar to the training you received on
7 workplace harassment?

8 A. Yes.

9 Q. And if you will go to the
10 next page of Exhibit F, again there's a
11 notation, the second one down that you
12 received training on prevention of
13 sexual harassment on June 13, 2008?

14 MS. PIZZINO: What page are you
15 on, Renee?

16 MS. BACCHUS: Third page, Bates
17 stamped 612 at the bottom.

18 MS. PIZZINO: Which one are you
19 referring to?

20 MS. BACCHUS: It's the second one
21 on the page.

22 BY MS. BACCHUS:

23 Q. Do you have any reason to
24 dispute that you received that training,
25 Mr. Garrett?

1 harassment before?

2 A. No.

3 - - - - -

4 (Thereupon, Deposition Exhibit-G

5 was marked for identification.)

6 - - - - -

7 Q. Mr. Garrett, I've handed you
8 what's been marked as Defendant's
9 Exhibit G and it's entitled Prevention
10 of Sexual Harassment and says Presented
11 by Department of Veterans Affairs. Can
12 you thumb through this and tell me if
13 you received this training?

14 A. Yes.

15 Q. Yes, you did receive this
16 training?

17 A. Yes.

18 MS. PIZZINO: Objection,
19 foundation. There's no date on this.
20 It's just a compilation of what appears
21 to be an unpublished undated document
22 that may be a series --

23 MS. BACCHUS: Your objection is
24 noted.

25 MS. PIZZINO: Well, let me

1 what's been marked as Government's
2 Exhibit L. This is a statement by
3 Roseann McDevitt and I'm asking have you
4 ever seen this statement before?

5 A. No.

6 Q. You didn't see it during
7 your criminal case?

8 A. No.

9 Q. Thank you.

10 - - - - -

11 (Thereupon, Deposition Exhibit-M
12 was marked for identification.)

13 - - - - -

14 Q. Mr. Garrett, I've handed you
15 what's been marked as Government's
16 Exhibit M. Do you recognize this
17 document?

18 A. Yes, I do.

19 Q. This document is dated March
20 28th, 2013?

21 A. Yes.

22 Q. And according to your
23 signature you received it on that date?

24 A. Yes.

25 Q. And that is your signature

1 on the bottom?

2 A. Yes.

3 Q. And this notified you that
4 you were being placed on immediate
5 administrative leave?

6 A. Yes.

7 Q. And according to paragraph 2
8 you were ordered to remain off duty and
9 off site for the duration of your
10 administrative leave?

11 A. Yes.

12 Q. And the period of
13 administrative leave was March 28, 2013,
14 through April 3rd, 2013?

15 A. Yes.

16 Q. Okay. Who gave you this
17 document, sir?

18 A. Second shift supervisor.

19 Q. Who was?

20 A. I don't know his name, he
21 was from the main hospital. He wasn't
22 the CIC supervisor.

23 Q. And did you receive Exhibit
24 M before or after meeting with the OIG
25 inspector?

1 A. After.

2 Q. And tell me how it came
3 about that you ended up meeting with the
4 OIG inspector to the best of your
5 knowledge.

6 A. To the best of my knowledge,
7 it was an incident that happened prior
8 to this happened with -- it was a
9 statement that were made by another
10 staff member, one of the nurses making
11 home wine. He had a hobby of making
12 home wine.

13 Q. Who was this nurse?

14 A. God, I forgot his name
15 because they moved him around. He was
16 new too. He came during the same time,
17 maybe a month or two after Ms. Ryan and
18 Ms. McDevitt.

19 Q. Do you know what his
20 position was?

21 A. Yeah, he was an RN, worked
22 on the unit.

23 Q. Can you describe him?

24 A. A white male, I want to say
25 John, but they know who he is, but I

1 could be removed or fired for talking to
2 them. Because if I knew it was -- had
3 was a criminal thing they were talking
4 about, I would have stopped and lawyered
5 up.

6 Q. So you agreed to talk to
7 them?

8 A. Yes.

9 Q. Did they specifically go over
10 the allegations that Ms. Ryan was making
11 against you?

12 A. No.

13 Q. They never asked you if you
14 had touched Ms. Ryan?

15 A. This is exactly how it went
16 down. They asked me did I know her,
17 and I said, yeah. And then they told
18 me that Mrs. Ryan had brought a charge
19 of harassment against you. And my
20 statement, I said, When were these
21 charges made specifically? He was,
22 like, what difference does it make? My
23 comment back to him was, Were they made
24 more than 48 hours ago? And then he
25 was, like, it doesn't matter. And I'm

1 saying it does matter if these
2 individual were made 48 hours because
3 within -- something happened the night
4 before on the way home between me, Ms.
5 Ryan, and two other nurses, staff
6 nurses, a conversation when we leaving
7 the ward.

8 Q. Who were these other staff
9 nurses?

10 A. Thomas Espinosa and Judy Chu.

11 Q. And are you saying that you
12 believe that these charges were --

13 A. They were brought up because
14 of that conversation on the way home.

15 MS. PIZZINO: I'm just going to
16 object to this ongoing line of
17 questioning as being not relevant to
18 these proceedings.

19 Q. So they ask you -- they told
20 you that Ms. Ryan had made harassment
21 charges against you?

22 A. Yes.

23 Q. Okay. Did they tell you any
24 of the specifics of the charges?

25 A. The Inspector General started

1 asking questions and these questions
2 began so far out and so ridiculous, and
3 the comment because I was wondering why
4 Captain Mitchell was not asking, because
5 I knew him being the VA police. And he
6 was asking me, well, something like do
7 you find her attractive? And my
8 statement to him, I don't look at people
9 on the outside. I'm a nurse, I look at
10 inside. But what this got to do with
11 when were these charges brought. That
12 was my comment. And then he brought up
13 the fact that, well, she got pictures or
14 recording, video recording. My
15 statement to the Inspector General,
16 well, if she got pictures and video, I'd
17 like to see them because, number one,
18 it's illegal to videotape somebody in
19 the VA. That's number one. Number
20 two, if she got pictures that I supposed
21 to take of her, I would love to see
22 those pictures. I'm not going to answer
23 no questions based on you telling me
24 stuff but you not showing me.

25 Then we went to the -- by my

1 union rep because I will have my union
2 book, I produced my book saying that
3 according to the union I think anything
4 you question me about, I have a right
5 to see it presented. And then that
6 when it got shady when he started
7 saying, well, I have enough evidence
8 that I can take this downtown. Then I
9 told him, well, if you got that kind of
10 evidence, then I don't have to talk to
11 you without an attorney. And everything
12 stopped.

13 Q. So my question to you is,
14 did he go over the specific allegations
15 that Ms. Ryan was making about the
16 things that you allegedly did to her?

17 A. No.

18 Q. So at no point during this
19 interview with OIG Inspector Maslar did
20 you admit to touching Ms. Ryan or trying
21 to kiss Ms. Ryan inappropriately. Is
22 that your testimony?

23 A. That's my testimony, no, I
24 didn't. And the reason for and I tell
25 you exactly, like I said, each question

1 he would ask, it was getting ridiculous
2 and ridiculous. Like who the prettiest
3 girl on your unit? And my statement
4 was that, look, you supposed to be
5 saying someone made a charge of
6 harassment that I haven't heard from the
7 unit manager, the supervisor, the CLC,
8 all these people and stuff, and then it
9 got to so far as ridiculous as asking
10 me do I have a gun in my car. And each
11 time he would ask me something stupid
12 and I'd come back with him on the union
13 employee not allowed to carry firearm on
14 the ground. And that was another reason
15 why I wanted to make him stop, because
16 I'm from Akron. This black male coming
17 from Akron, if I get pulled over and
18 someone on the radio saying I have a
19 weapon in my car, there could be
20 consequences. Number two, if the VA
21 police know that somebody had been
22 reported to having a weapon on the
23 ground, they supposed to pull me out of
24 my unit. It's procedure that have to
25 be followed and that what I was trying

1 I received this from the union when we
2 had to go after my criminal case were
3 over and done.

4 Q. Okay.

5 A. And I had to go back because
6 they was -- until the criminal case was
7 taken care of, I was on suspension --
8 on leave.

9 Q. I understand.

10 A. When they come back to
11 release me from the job, they had to
12 turn everything over to the union. As
13 a matter of fact, the union couldn't
14 even get this statement.

15 Q. Okay. We're going to move
16 on.

17 - - - - -
18 (Thereupon, Deposition Exhibit-O
19 was marked for identification.)
20 - - - - -

21 Q. Mr. Garrett, I've handed you
22 what's been marked as Government's
23 Exhibit O. Do you recognize this
24 document?

25 A. Yes.

1 (Thereupon, Deposition Exhibit-P
2 was marked for identification.)
3 - - - - -

4 Q. Mr. Garrett, I've handed you
5 what's been marked as Government's
6 Exhibit P. This is a true bill
7 indictment issued by Cuyahoga County
8 Common Pleas Court Criminal Division.
9 This is an indictment against you,
10 correct?

11 A. Yes.

12 Q. And you've seen this document
13 before?

14 A. Yes.

15 Q. And it appears that you were
16 indicted for I think three counts of
17 gross sexual imposition?

18 A. Yes.

19 Q. I'm sorry, five counts of
20 gross sexual imposition and one count of
21 kidnapping from the Common Pleas Court,
22 correct?

23 A. Yes.

24 Q. And the charges stemmed from
25 allegations made by Ms. Ryan; is that

1 correct?

2 A. Yes.

3 Q. And eventually you pled
4 guilty to amended charges; is that
5 correct?

6 A. My attorney, pleaded down
7 from felony to misdemeanor.

8 Q. Okay. But you did plead
9 guilty?

10 A. Yes. You want to know
11 why I --

12 Q. Hold on. Hold on.

13 - - - - -
14 (Thereupon, Deposition Exhibit-Q
15 was marked for identification.)

16 - - - - -
17 Q. So Mr. Garrett, I've handed
18 you what's been marked as Government's
19 Exhibit Q. This is a printout of the
20 docket in Criminal Case 13-574582, State
21 of Ohio versus MD Garrett, which is the
22 same case as resulting from your
23 indictment; is that correct?

24 A. I'm assuming that's what it
25 is.

1 A. Yeah.

2 Q. And your indefinite
3 suspension according to paragraph 1 was
4 effective Friday, August 16, 2013?

5 A. Yes.

6 Q. And your signature appears
7 on the last page, sir, dated August
8, 2013?

9 A. Yes.

10 - - - - -
11 (Thereupon, Deposition Exhibit-T
12 was marked for identification.)
13 - - - - -

14 Q. Mr. Garrett, I've handed you
15 what's been marked as Government's
16 Exhibit T. It is a letter to you dated
17 May 14, 2014, and the subject is a
18 proposed removal for conduct unbecoming
19 a federal employee arising out of your
20 conviction in the criminal case. Have
21 you seen this document before?

22 A. Yes.

23 Q. And you had an opportunity
24 to present an oral and/or written reply
25 to the charge?

1 A. Yes.

2 Q. Did you present any written
3 reply at all?

4 A. No, we did an oral reply.

5 Q. And you were represented by
6 a union rep, do you recall?

7 A. Yes.

8 - - - - -

9 (Thereupon, Deposition Exhibit-U

10 was marked for identification.)

11 - - - - -

12 Q. Mr. Garrett, I've handed you
13 what has been marked as Exhibit U. It
14 is a letter to you dated July 7, 2014,
15 and it is a notice that you are being
16 removed from your position as a nurse's
17 aide with the VA and the reason was as
18 stated in paragraph 1 of the notice of
19 proposed removal is sustained, and the
20 proposed removal has been previously
21 marked as Government's Exhibit T. Have
22 you seen this document before?

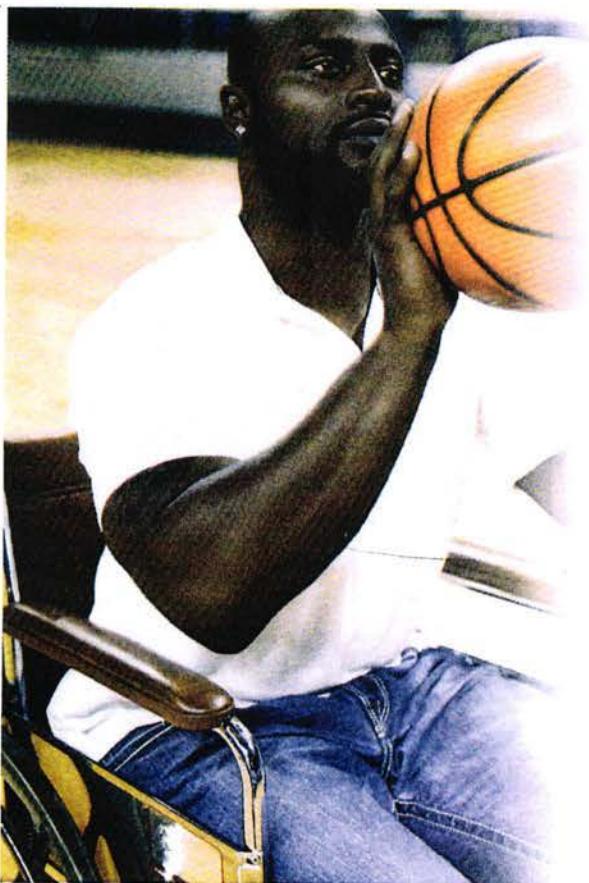
23 A. Yes.

24 Q. Okay. And did you file a
25 grievance over your removal?

1 A. No, the union told me that
2 my grievance with the arbitration took
3 the fact of this removal because the
4 arbitration was then three days before
5 my hearing was to take place, and I
6 could not answer anything because I was
7 under court. As a matter of fact, the
8 arbitration would not take -- told me
9 that they couldn't take my statement
10 because my attorney wasn't there to -- I
11 had to have an attorney that was -- at
12 the arbitration that -- the union was
13 doing one thing, the union would argue
14 in the arbitration, but when I went in
15 there after to hear the case over and
16 done with, then I read my statement
17 before that but it wasn't what I said
18 because by that time I just knew it was
19 over and like I said, wasn't going to
20 sweat it.

21 Q. You didn't fight your removal
22 from the VA except filing with the
23 union?

24 A. No, once the arbitration, it
25 was like turn the page on that chapter.



Prevent Complications of Diabetes: *Follow the ABC's*

A Hemoglobin A1C

A1C lab test is done about 2 times per year. It shows your blood sugar control over the past 2 – 3 months. High A1Cs over time increase the risk for complications.

Goal: *Less than 7 if you have diabetes*

B Blood Pressure (B/P)

High B/P makes your heart work harder & increases your risk for heart attack, stroke or kidney disease. Have your blood pressure taken at every visit.

Goal: *120/80 or less if you have diabetes*

C Cholesterol

Elevated cholesterol levels, especially LDL (bad) cholesterol, can cause your blood vessels to narrow and harden. The blood vessels can clog up and lead to a heart attack or stroke. Cholesterol blood test is done at least 1 time per year.

Goal: *LDL cholesterol less than 100 if you have diabetes*



Eating balanced meals with about the same amount of carbohydrates (*starches and fruits*) at each meal will help control blood sugar.



Use vegetable oils for baking and cooking, instead of solid fats like butter, lard and shortening.

March

Sunday

Monday

Tuesday

Wednesday

Record:
Minutes Exercised
and/or log these on My HealtheVet at: www.myhealth.va.gov

Record:
Blood Pressure

Record:
Blood Sugar

Friday

Saturday

1

2

“The greatest accomplishment is not in never falling, but in rising again after you fall.”

— Vince Lombardi

FEBRUARY 2013

S	M	T	W	T	F	S
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28		

APRIL 2013

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					



Weight _____

3

4

5

6

7

8

9

Weight _____

10

11

12

13

14

15

16

Weight _____

Daylight Saving
Time Begins
(turn clocks ahead one hour)

Rose Ann Didn't
work

17

off
call from
unit manage
about a staff
member
3:15 - 3:30

18

Annette ask
to switch day
Sunday for Saturday

19

switch day
down approve

21

Rose Ann
Talk to
me

22

23

Spring Begins

switch day

24

25

TALK to
supervision
about thing
on unit
TALK to
Annette
about
talking

26

Annette seen
on ground but
no show for
work

27

TALK to
unit manage
TALK to VA
Police place on AA

29

30

31

And telling
half truth
other staff
member % me

Weight _____

Protect Your Heart – Lower Your Cholesterol

Cholesterol and triglycerides are types of fat in your blood.

- **LDL** (called the "bad cholesterol") and triglycerides are two types of fat that can narrow or block your arteries.
- **HDL** (called the "good cholesterol") helps remove fat from your arteries.

Lowering LDL and triglycerides is important for almost everyone. It can help decrease your risk of heart attack and stroke. You can also reduce your risk of a heart attack by raising your good cholesterol. Your "total cholesterol" includes both the good and bad cholesterol in your blood. You need to know both numbers, and your triglyceride level, to understand your risk for hardening of the arteries, heart attack, and stroke.

You can lower the fat in your blood by:

- Eating a diet low in fat and cholesterol
- Managing your weight
- Adding exercise to your daily routine
- If you smoke – STOP NOW!

Start today by eating more fruits, vegetables, and whole grain foods. Switch to low-fat milk, cheese, and yogurt. Walk or do some activity at least 30 minutes a day.

See Back Page for Cholesterol Guidelines



High cholesterol has no signs or symptoms. Your provider can do a simple blood test to check your levels.



healthTIP

Drinking alcohol can raise triglycerides. Drink in moderation.

April

Record:
Minutes Exercised
and/or log these on My HealtheVet at: www.myhealth.va.gov

Record:
Blood Pressure

Record:
Blood Sugar

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	
	1	2	Call Lisa Herman Receive call from Bob Report to Akron C Box	3	4	5	6

3-16-13 3:30p- 12m - RoseAnne Complaint about Assignment 3 patient
2 Bowel care - Princess had Ø

3-17-13 3:30p- 12m - RoseAnne didn't show up for overtime

3-18-13 Receive call from Lisa Herman About staff member
Selling ~~Achetoc~~ Alcohol to staff and patient. Wanted me
to write a ROC.

3-19-13 Annette wanted to ^{switch} ~~shift~~ a day (Weekend) with me
Saturday for Sunday. Rumor ~~stated~~ started about staff
not talking to RoseAnne for going to Complaint about the
Weekend (started by RoseAnne)

3-21-13 Dawn made shift change. Annette work my Sunday 3-24-13
And I work her Saturday 3-30-13. I was under the
standing understanding that she need to do this for School.
But, later on that night she stated she was doing it
for to be there to talk to RoseAnne so she wouldn't
eat lunch by herself. I let Annette know it that was
the reason she was doing it I would not have
change and the staff need to stop acting ^{like} School Kid

3-23-13 RoseAnne came to me around 6pm saying that someone
made a statement to her about a ^{comment} ~~comment~~ I make about
her. I stop RoseAnne and told her to bring that
person to me so all 3 of us can talk about the ~~comment~~
comment I made in Report. RoseAnne stated that the
remark came from Day Shift so I ~~repeated~~ stated
again to bring that person to me so we can all
get it straighten out.

I knew the comment did not come from day shift because they were only 2 people in the room ~~From day shift~~ when I made the statement. The statement I made was this "If you are working overtime, you have to work the assignment given to you. You can't request for overtime and then complain about your assignment, then run to the Unit Manager about it being unfair. We all have the same amount of resident, ~~is~~ And if you need help ask for it." the Charge Nurse Agree and told that staff member that the Unit Manager Agree with how she do the assignment. At no time was Roseanne McDermott name was ~~said~~ call.

Around 7:45 pm while get my resident in bed Roseanne came in the Room (171-B) ~~and~~ and wanted to talk about the comment again so I told her what the statement was and that it had nothing to do with her and we talk about information ~~she~~ was told about working overtime and I told her what I ~~knew~~ knew was told to me about the policy of working overtime and I would check it to make sure if I was wrong.

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1 CEFARATTI GROUP FILE NO. 20238

2 CASE CAPTION: ANNETTE RYAN (K/N/A KATZ)

3 VS. ROBERT MCDONALD, SECRETARY,

4 DEPARTMENT OF VETERANS' AFFAIRS

5 DEPONENT: M.D. GARRETT

6 DEPOSITION DATE: APRIL 12, 2017

7 M.D. Garrett

8 (SIGN HERE)

9 The State of Ohio,)

10 County of Cuyahoga.) SS:

11 Before me, a Notary Public in and
12 for said County and State, personally
13 appeared M.D. GARRETT, who acknowledged
14 that he/she did read his/her transcript
15 in the above-captioned matter, listed
16 any necessary corrections on the
17 accompanying errata sheet, and did sign
18 the foregoing sworn statement and that
19 the same is his/her free act and deed.20 IN TESTIMONY WHEREOF, I have
21 hereunto affixed my name and official22 seal at Cuyahoga County, this 6th
23 day of JUNE, A.D. 201724 Carmen T. Petello
25 CARMEN T. PETELLO
Notary Public

Commission Expires

5-1-21



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1 ERRATA SHEET

2	PAGE	LINE	CORRECTION AND REASON
3	6	3	moreley correct spelling
4	.		
5	.		
6	.		
7	.		
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